



STATE OF MAINE  
DEPARTMENT OF ENVIRONMENTAL PROTECTION

JOHN ELIAS BALDACCI  
GOVERNOR

DAVID P. LITTELL  
COMMISSIONER

To: Board of Environmental Protection

From: Richard M. Currie, Hazardous Waste Enforcement Program  
Bureau of Remediation and Waste Management

Date: December 17, 2009

RE: Administrative Consent Agreement – The Webber Hospital Association d/b/a  
Southern Maine Medical Center

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Statutory and Regulatory Reference: The Maine Hazardous Waste Management Rules, Chapters 850 through 857 adopted pursuant to the Maine Hazardous Waste, Septage and Solid Waste Management Act, 38 M.R.S.A. Section 1301 et seq., specifies certain requirements for the management, storage, treatment, and disposal of hazardous waste.

Location: Southern Maine Medical Center, One Medical Center Drive, Biddeford, Maine

Description: The Webber Hospital Association has entered into the attached Consent Agreement as proposed by Department staff in order to resolve violations of Maine's Hazardous Waste Management Rules. The violations were documented during an inspection of the facility on May 12, 2009. The hazardous waste violations identified during the inspection include the following: 1) Failure to properly determine if a generated hazardous waste is exempt from the regulations; 2) Disposal of hazardous waste without a license to do so; 3) Failure to label or mark containers of hazardous waste with the words "Hazardous Waste" and the date upon which waste accumulation began; 4) Failure to keep containers of hazardous waste closed except when adding or removing waste; 5) Failure to conduct and document daily inspections for containers of hazardous waste; 6) Failure to post signs with the words "Danger - Unauthorized Personnel Keep Out", and "No Smoking"; 7) Failure to equip the hazardous waste storage area with portable fire extinguishers; 8) Failure to provide and document a personnel-training program which, specifically relates to hazardous waste management, for all employees who perform hazardous waste duties; 9) Failure to develop a complete contingency plan for hazardous waste management, and submit a copy of the contingency plan to, and make annual arrangements for services provided by, local police, fire departments, hospitals and emergency response teams; and 10) failure to properly manage universal hazardous waste.

To resolve these violations, Southern Maine Medical Center has undertaken corrective actions and has performed the following at its facility: 1) determined its waste ethanol is regulated as a hazardous waste; 2) ceased the discharge of hazardous waste ethanol to the sanitary sewer; 3) labeled all hazardous waste containers with the words "Hazardous Waste"; 4) closed all containers of hazardous waste; 5) began conducting daily inspections on all containers of

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hazardous waste; 6) posted proper signage at the hazardous waste storage area; 7) provided a fire extinguisher at the hazardous waste storage area; 8) developed a personnel training plan specifically for hazardous waste management; 9) developed a complete hazardous waste contingency plan; and 10) began properly managing universal hazardous waste. In addition, it has agreed to pay to the Maine Hazardous Waste Fund a penalty of twelve thousand three hundred dollars (\$12,300.00).

The Maine Hazardous Waste Fund is established by statute to provide the Department with the capability for prompt and effective response to spills and unlicensed discharges of hazardous waste, and for the inspection or supervision of hazardous waste handlers and related hazardous waste activities. Pursuant to statute, all fees, penalties, interest, and other charges relative to those activities must be credited to the Maine Hazardous Waste Fund.

Southern Maine Medical Center has agreed to pay the above penalty, which is based upon the type and number of violations involved, the amount of waste involved, the relative extent of deviation from the requirements, and economic benefits realized. In this specific case, the penalty included two thousand two hundred fifty dollars (\$2,250.00) in economic benefit realized by the improper disposal of hazardous waste to the sewer instead of paying for disposal by a licensed transporter at an appropriate facility. Aggravating factors considered in the penalty included the improper disposal of hazardous waste. Mitigating factors include Southern Maine Medical Center's timely response and cooperation.

Environmental issues: Improper disposal of hazardous waste consisting of ignitable solvents to the sanitary sewer stream.

Procedural Issues: None

Department Recommendation: The Department recommends that the Board accept this Administrative Consent Agreement and Enforcement Order as part of its Consent Agenda to resolve the issues addressed.

Estimated time of presentation: No presentation. Unanimous Consent item.



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IN THE MATTER OF

THE WEBBER HOSPITAL ASSOCIATION	)	
d/b/a SOUTHERN MAINE MEDICAL CENTER	)	ADMINISTRATIVE CONSENT
ONE MEDICAL CENTER DRIVE, BIDDEFORD	)	AGREEMENT
YORK COUNTY, MAINE	)	(38 M.R.S.A § 347-A)
HAZARDOUS WASTE ACTIVITIES	)	

This Agreement by and among The Webber Hospital Association doing business as Southern Maine Medical Center ("Southern Maine Medical Center"), the Maine Department of Environmental Protection ("Department") and the Maine Office of the Attorney General, is entered into pursuant to the laws concerning the Department's *Organization and Powers*, 38 M.R.S.A. § 347-A(1).

THE PARTIES AGREE AS FOLLOWS:

1. The Webber Hospital Association d/b/a Southern Maine Medical Center is a duly organized non-profit corporation that is authorized to do business in Maine and operates a hospital at One Medical Center Drive, in Biddeford, Maine.
2. Southern Maine Medical Center is a generator of hazardous waste including, but not limited to ignitable and F-listed waste solvents, corrosive waste chromic acid and sodium hydroxide, silver nitrate, and ignitable waste ethanol and methanol. As a result, Southern Maine Medical Center is subject to the requirements of the *Maine Hazardous Waste, Septage and Solid Waste Management Act* ("Act"), 38 M.R.S.A. §§ 1301 through 1319-Y and the Department's Hazardous Waste Management Rules, 06-096 CMR ("Rules"), Chapters 850 through 857.
3. On May 12, 2009, Department staff inspected Southern Maine Medical Center to assess compliance with the hazardous waste management standards of the Act and the Rules. The inspection revealed the following violations:

- A. Failure to properly determine if a generated hazardous waste is exempt from the regulations, in violation of the Rules, Chapter 851, Section 5(A);

Southern Maine Medical Center improperly determined that hazardous waste ethanol was exempt from regulation under the Rules. Southern Maine Medical Center was disposing of approximately 11 gallons per month of this waste in a laboratory sink that is connected to the city of Biddeford sewer system.

- B. Disposal of hazardous waste without a license to do so, in violation of the Rules, Chapter 851 Section (12)(A), and Chapter 856, Section (5)(A);

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Southern Maine Medical Center was disposing of waste ethanol in a laboratory sink that is connected to the city of Biddeford sewer system without a license to do so. The operator of the Biddeford wastewater treatment facility had issued a letter improperly advising Southern Maine Medical Center that it could discharge up to 3000 ml of waste ethanol over an 8-16 hour period. The facility was discharging waste ethanol in batches of 2450 mls each, an average of 17 times per month for the past year. Disposal of up to five (5) batches or 12,250 mls a day were noted on a log sheet of discharges maintained by the facility.

- C. Failure to label or mark containers of hazardous waste with the words "Hazardous Waste" and the date upon which waste accumulation began, in violation of the Rules, Chapter 851, Section (8)(B)(3);
- i. Southern Maine Medical Center did not properly label or mark one (1) container of hazardous waste silver nitrate, one (1) container of waste chromic acid, one (1) container of waste acetone, one (1) container of waste xylene, and three (3) containers of waste methanol with the words "Hazardous Waste". These containers were located at satellite accumulation areas in the facility's laboratories. Five (5) of these containers were labeled as "Waste" but the word "Hazardous" was omitted.
  - ii. Southern Maine Medical Center failed to mark one (1) half-gallon container of silver nitrate, one (1) half-gallon container of chromic acid, and one (1) 2 inch by 3 inch by 5 inch box of sodium nitrate, all located in the hazardous waste storage area, with the words "Hazardous Waste" and the accumulation start date.
- D. Failure to keep containers of hazardous waste closed except when adding or removing waste, in violation of the Rules, Chapter 851, Section (8)(B)(2) and 40 CFR 265.173;
- Southern Maine Medical Center stored hazardous waste methanol and dyes containing methanol and acetone in two (2) open containers in its Microbiology Laboratory.
- E. Failure to conduct and document daily inspections for containers of hazardous waste, in violation of the Rules, Chapter 851, Section (13)(D);
- i. Southern Maine Medical Center conducted and documented weekly instead of daily inspections on waste containers stored in its hazardous waste storage area.
  - ii. Southern Maine Medical Center failed to conduct or log daily inspections on any hazardous waste containers in its satellite accumulation areas.

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- F. Failure to post signs with the words "Danger - Unauthorized Personnel Keep Out", and "No Smoking", in violation of the Rules, Chapter 851, Section (13)(C)(7)(c) and 40 CFR 264.14(c) and 40 CFR 264.17(a);

Southern Maine Medical Center did not have signs with the words "Danger - Unauthorized Personnel Keep Out" and "No Smoking" at the entrance to its hazardous waste storage building. The building was marked "Hazardous Waste Storage" but did not have the required signage. The building was located on a smoke free campus. However "No Smoking" signs are required at the entrance to the hazardous waste storage building.

- G. Failure to equip the hazardous waste storage area with portable fire extinguishers, in violation of the Rules, Chapter 851, Section (13)(C)(7)(c)(ii), and 40 CFR 264.32(c);

Southern Maine Medical Center failed to equip the hazardous waste storage area with a portable fire extinguisher or other means of firefighting.

- H. Failure to provide and document a personnel-training program which, specifically relates to hazardous waste management, for all employees who perform hazardous waste duties, in violation of the Rules, Chapter 851, Section (8)(B)(5) and 40 CFR 264.16;

Southern Maine Medical Center failed to provide a personnel-training program specifically covering hazardous waste management for employees who perform hazardous waste duties.

- I. Failure to develop a complete contingency plan for hazardous waste management, and submit a copy of the contingency plan to, and make annual arrangements for services provided by, local police, fire departments, hospitals and emergency response teams, in violation of the Rules, Chapter 851, Section (8)(B)(5) and Section (13)(C)(7)(c)(ii), and 40 CFR 264, Subpart D;

Southern Maine Medical Center did not have a complete contingency plan designed to minimize hazards to human health or the environment from fires, explosions, or any unplanned sudden release of hazardous waste constituents to air, soil, or surface water, and had not submitted copies to, and had not established a written aid agreement with local police and fire departments, hospitals and emergency response organizations for services in the event of an emergency related to hazardous waste.

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- J. Failure to mark or label containers of universal waste with the type of universal waste (e.g. "Waste Lamps"), with an accumulation start date, and the full date, in violation of the Rules, Chapter 850, Section 3(A)(13)(e)(xii) and (e)(xxiii);

Southern Maine Medical Center failed to mark or label five (5) containers of universal waste lamps.

- K. Failure to store universal waste in closed undamaged containers, in violation of the Rules, Chapter 850, Section 3(A)(13)(e)(vi);

Southern Maine Medical Center failed to store universal waste lamps and batteries in appropriate containers.

- L. Failure to contain and transfer all releases of waste and residues resulting from incidental breakage of lamps to a proper container, in violation of the Rules, Chapter 850, Section 3(A)(13)(e)(vii);

Southern Maine Medical Center failed to transfer a broken lamp to a sealed container or immediately seal a container that had a broken lamp inside.

- M. Failure to train all employees who handle or manage universal waste on proper handling and emergency procedures, in violation of the Rules, Chapter 850, Section 3(A)(13)(e)(ix).

Southern Maine Medical Center failed to train employees on the proper handling of universal waste and maintain documentation of training.

- N. Failure to conduct and document weekly inspections and maintain an inventory of universal waste when more than 200 items of universal waste are stored onsite, in violation of the Rules, Chapter 850, Section 3(A)(13)(e)(x).

Southern Maine Medical Center failed to conduct and document weekly inspections in its universal waste storage area, which contained more than 200 items of universal waste. It also failed to maintain an inventory of universal waste items on-site.

4. On June 22, 2009, the Department issued a Notice of Violation (NOV) for the violations cited in paragraph 3 of this Agreement, and requested a written response within thirty (30) days, documenting corrective actions undertaken for each of the violations.



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5. On July 3, 2009, Southern Maine Medical Center responded to the NOV and findings of the inspection, indicating corrective actions and hazardous waste management changes implemented since the inspection. Southern Maine Medical Center indicated they had taken corrective actions and implemented management changes including: ceased the discharge of hazardous waste ethanol to the sanitary sewer, labeled all hazardous waste containers with the words "Hazardous Waste", closed all containers of hazardous waste, began conducting daily inspections on all containers of hazardous waste, posted proper signage at the hazardous waste storage area, provided a fire extinguisher at the hazardous waste storage area, developed a personnel training plan specifically for hazardous waste management, developed a complete hazardous waste contingency plan, labeled universal waste containers, stored universal waste in containers, and began conducting weekly inspections on containers of universal waste.
6. On August 28, 2009, Southern Maine Medical Center conducted and documented personnel training specific to hazardous waste management.
7. Based on the correspondence and documentation submitted by Southern Maine Medical Center regarding its NOV response and its personnel training as referenced in paragraphs 5 and 6 above, the Department is satisfied that Southern Maine Medical Center has corrected the violations cited in paragraph 3.
8. Pursuant to 38 M.R.S.A. §§ 341-D(6)(C) and 347-A(1)(A)(1), administrative consent agreements must be approved by the Board of Environmental Protection ("Board"), which is part of the Department.
9. This Agreement shall become effective only if it is approved by the Board and the Office of the Attorney General.
10. To resolve the violations referenced in paragraph 3 of this Agreement, Southern Maine Medical Center agrees to:  
  
Immediately upon Southern Maine Medical Center's signature of this Agreement, pay to the Treasurer, State of Maine, c/o Hazardous Waste Fund, a civil monetary penalty of twelve thousand three hundred dollars (\$12,300.00).
11. The Department and Office of the Attorney General grant a release of their cause of action against Southern Maine Medical Center for the specific violations listed in paragraph 3 of this Agreement on the express condition that all actions listed in paragraphs 5, 6 and 10 of this Agreement are completed in accordance with the express terms and conditions of this Agreement, except that no release is granted for any contamination of surface waters,

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ground waters, soils, sediment or ambient air as a result of the violations set forth in this Agreement. This Agreement shall not prohibit the Department from requiring additional corrective measures or other remedial actions if the Department determines that such action is necessary to protect public health, safety, and/or the environment. This release shall not become effective until all requirements of this Agreement are satisfied.

12. Non-compliance with this Agreement voids the release set forth in paragraph 11 of this Agreement and may lead to an enforcement action pursuant to 38 M.R.S.A. §§ 347-A(1)(A), 347-A(5), or 348, as well as pursuit of other remedies.
13. Actions taken pursuant to this Agreement shall be completed in accordance with the requirements of all applicable local, state, and federal laws, rules, laws, and orders including but not limited to licensing requirements.
14. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement consisting of six (6) pages.

THE WEBBER HOSPITAL ASSOCIATION d/b/a SOUTHERN MAINE MEDICAL CENTER

BY: Frank W. Lavoie DATE: 11/19/2009  
~~Edward J. McGeachey, President and CEO~~  
Frank W. Lavoie, MD, EVP + COO

MAINE BOARD OF ENVIRONMENTAL PROTECTION

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Susan M. Lessard, Chair

MAINE OFFICE OF THE ATTORNEY GENERAL

BY: \_\_\_\_\_ DATE: \_\_\_\_\_  
Peter Lafond, Assistant Attorney General